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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,174	01/02/2002	Brian C. Ramey	BEA920010036US1	9102
49056	7590	03/08/2006		
LIEBERMAN & BRANDSDORFER, LLC 802 STILL CREEK LANE GAITHERSBURG, MD 20878			EXAMINER KOROBV, VITALI A	
			ART UNIT 2155	PAPER NUMBER

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/040,174	RAMEY, BRIAN C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vitali Korobov	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **RESPONSE TO RCE**

1. This Office Action is in response to an RCE filed on 12/14/2006. Claims 1-3, 5-7, 9-12, 14, and have been amended. Claims 13 and 17 have been canceled. New claims 20-22 have been added. Claims 1-12, 14-16, and 18-22 are now pending.

2. The applicant's arguments with respect to claims 1-12, 14-16, 18 and 19 have been considered but are moot in view of the following new grounds of rejection.

### ***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 11/14/2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
- (2) a patent granted on an application for patent by another filed in the United States before

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the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-2, 7 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by the U. S. Patent No. 6,192,423 to Graf, hereinafter Graf (prior art admitted by the Applicant).

Regarding claim 1, Graf teaches a method comprising: routing communication from a first partition of a computer system, formatted for headless communication (Fig. 1, control logic 11 performs the routing), to a service processor formatted for headless communication (Fig. 1, service processor microcontroller 12), wherein said service processor is adapted to provide support and maintenance of said computer system (Fig. 1, computer system 14); and routing communication from said service processor to a remote console (Fig. 1, remote console on connection 23), wherein said service processor includes a channel formatted for headless communication (channel on connection 23).

Regarding claim 2, Graf teaches the method of claim 1, further comprising providing management commands to said partition through said service processor (Fig. 1, microcontroller 12 is inherently capable of receiving management commands).

Regarding claim 20, Graf teaches the method of claim 1, wherein said channel of said partition and said channel of said service processor are UART communication channels formatted for headless communication in compliance with headless firmware (Fig. 1, UARTs 13 and 15).

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Claim 7 is rejected in view of the above rejection of claim 1. Claim 7 is essentially the same as claim 1, except that it sets forth the invention as a system rather than a method, as does claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6, 8-10, 14, 15, 18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graf in view of the commonly assigned and authored U. S. Patent 6,317,798 to Graf, hereinafter referred to as Graf 2, and further in view of the U. S. Patent 5,251,324 to McMullan, Jr., hereinafter McMullan.

Regarding claim 3, Graf teaches the method of claim 1,

Graf does not explicitly teach such method wherein said management commands support in-band, out-of-band, and pre-boot modes of operation.

However, Graf 2, in commonly assigned and authored analogous art teaches pre-boot modes of operation via UART coupled to a multiplexer (Graf 2, col. 2, lines 51-59), providing serial redirection of BIOS management commands on a computer system, thereby supporting pre-boot modes of operation in a headless computer environment (Graf 2, Fig. 1).

Graf 2 does not explicitly teach in-band or out-of-band modes of operation. However, McMullan in analogous art, related to serial redirection, employing UART coupled to a multiplexer in a headless environment (collection of viewing statistics from the user's set top boxes), teaches support for in-band (McMullan, Fig. 2) and out-of-band modes of operation (McMullan, Fig. 3) for command receivers.

Therefore, it would have been obvious to one having ordinary skills in the art at the time the invention was made to combine the teachings of Graf with the teachings of Graf 2 and McMullan to make the system of Graf more versatile, hereinafter referred to as modified Graf.

Regarding claim 4, modified Graf teaches the method of claim 1, further comprising the step of routing communication from one of a plurality of partitions to said service processor through a multiplexer (McMullan, Fig. 11, where UART 8250 routes communications from EPROM partitions 1360-1380 to a multiplexer at the service processor (system manager). See also McMullan, col. 22, lines 34-43).

Regarding claim 5, modified Graf teaches the method of claim 4, further comprising the step of selecting a specific channel of one of said plurality of partitions for communication between said multiplexer and said service processor through a multiplexer control (McMullan, col. 22, lines 39-43).

Regarding claim 6, modified Graf teaches the method of claim 4, further comprising said remote console providing a management command to one of

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said plurality of partitions through said service processor and said multiplexer (McMullan, col. 22, lines 34-43).

Claims 8-10 do not teach any new limitations above those of rejected claims 3-6 and therefore are rejected under the same rationale.

Claims 14, 15 and 21 do not teach any new limitations above rejected claims 3-6 and therefore are rejected under the same rationale.

Claim 18 and 22 are rejected in view of the above rejection of claims 15 and 21. Claims 18 and 22 are essentially the same as claims 15 and 21, except that they set forth the invention as a computer system rather than a method, as do claims 15 and 21.

6. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graf in view of the above rejection of claim 1. Claim 12 is different from claim 1 essentially in that it has a limitation directed to an additional second partition, functionally analogous to the first partition. Graf discloses the claimed limitations of claim 1, except for a second partition functionally analogous to the first partition. Therefore, it would have been obvious to one having ordinary skills in the art at the time the invention was made to add a second partition, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8).

Claim 16 is rejected in view of the above rejection of claim 12. Claim 16 is essentially the same as claim 12, except that it sets forth the invention as a computer system rather than a method, as does claim 12.

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7. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Graf, and in view of the U. S. Patent 6,047,319 to Olson, hereinafter Olson.

Regarding claim 11, modified Graf teaches the system of claim 7 wherein said service processor receives and transmits management commands with said remote console, wherein said commands include in-band, out-of-band, and pre-boot modes of operation (Graf 2, col. 2, lines 51-59; McMullan, Fig. 2 and 3).

Modified Graf does not explicitly teach the system wherein management commands are transmitted through an Ethernet connection.

However Olson in analogous art, related to multiplexer coupled UART communications in a headless environment, teaches command transmission through the Ethernet connection (Olson, col. 5, lines 25-30).

Therefore, it would have been obvious to one having ordinary skills in the art at the time the invention was made to incorporate the teachings of Olson into the teachings of modified Graf in order to supplement the invention with broader connectivity.

Claim 19 is rejected in view of the above rejection of claim 11 since it is essentially the same as claim 11.

8. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.



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**Conclusion**


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vitali Korobov whose telephone number is 571-272-7506. The examiner can normally be reached on Mon-Friday 8a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571)272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vitali Korobov  
Examiner  
Art Unit 2155

03/05/2006  
VAK

  
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